

EXPENDITURES IN ENFORCEMENT OF ANTITRUST LAWS.

LETTER

FROM

THE ATTORNEY-GENERAL,

TRANSMITTING

A REPLY TO THE RESOLUTION OF THE HOUSE INQUIRING AS TO
EXPENDITURES IN THE ENFORCEMENT OF ANTITRUST LAWS.

JANUARY 13, 1904.—Referred to the Committee on the Judiciary and ordered to be
printed.

DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY-GENERAL,
Washington, D. C., January 13, 1904.

SIR: I have the honor to acknowledge the receipt of a resolution passed January 11, 1904, by the House of Representatives, requesting the Attorney-General, in so far as in his judgment it is not incompatible with the interest of the public service, to communicate to the House a full report of all sums of money spent by him under the act of Congress of March 3, 1903, providing for the enforcement of the provisions of law known as the Sherman antitrust law, and the law approved February 4, 1887, and acts amendatory thereof or supplemental thereto; said report to show "to whom said sums of money have been paid, and what services have been performed by each person; how many and what kind of legal proceedings have been instituted by him or under his direction under said laws, and where the same are now pending, and what has been the result of such proceedings."

The statement herewith inclosed shows the sums expended from the appropriation referred to and the persons to whom and the services for which payments have been made.

The item of \$15,011.08 for salaries will be understood in the light of these facts: On January 5, 1903, while the bill appropriating \$500,000 for the enforcement of the Federal antitrust laws and laws to regulate commerce was pending, I communicated with both Houses of Congress, through the chairmen of their respective committees on the judiciary, to the effect that if the permanent force of the Depart-

ment of Justice were increased by the addition of an assistant to the Attorney-General and an assistant attorney-general, with two confidential stenographers, much of the work contemplated by the bill could be more economically as well as better done than by the employment of special counsel, and that if this were done a much less appropriation for special services than that proposed would meet the requirements of the immediate future. A copy of the letter mentioned is hereto attached.

In accordance with this suggestion, the offices mentioned were created, the salaries attached thereto to be paid from the appropriation named in the House resolution, and with this addition to the force of the Department, I have been able during the past year, with the expenditure of but comparatively a small part of the appropriation referred to, to prosecute, under the antitrust laws, much litigation of importance, and also to carry on thorough investigations of a number of complaints of infringement of the law, to determine whether they were made in good faith for the public good, whether they raised questions under the act which are now sub judice or whether they are covered by the law at all.

The salary paid Mr. W. M. Collier is as a special assistant attorney-general to assist in the enforcement of the antitrust laws. He has been assigned to perform his duties at the Department of Commerce and Labor in connection with the Bureau of Corporations.

In further response to the request of the House, I submit the following statement describing the litigation referred to somewhat in detail:

1. *The Northern Securities case.*—This is a proceeding in equity, instituted under the Sherman antitrust act in the United States circuit court for the judicial district of Minnesota, for the purpose of preventing the combination and practical consolidation of the Great Northern and Northern Pacific Railway companies, competing interstate carriers, by means of a company organized to hold a majority of the shares of each railway. The circuit court entered a decree for the United States, whereupon the defendants took an appeal to the Supreme Court, and this appeal is now pending, having been argued December 14 and 15, 1903.

2. *The Beef Trust case.*—This is a proceeding in equity, brought under the antitrust act in the United States circuit court for the northern judicial district of Illinois, to dissolve an alleged unlawful combination and conspiracy between 7 corporations, 1 partnership, and 23 individuals, engaged in the business of purchasing live stock, converting the same into fresh and cured meats, and shipping and selling the products to dealers and consumers throughout the United States and in foreign countries. The defendants interposed a demurrer, which was overruled by the circuit court. From this decision an appeal was taken to the Supreme Court and is now pending there.

3. *The railroad injunction suits.*—These are proceedings in equity under the antitrust act against 14 railroad companies, 8 pending in the United States circuit court for the western judicial district of Missouri and 6 in the United States circuit court for the northern judicial district of Illinois. The object of the proceedings was to break up an unlawful combination between the railroad companies and certain favored shippers, whereby the latter were granted rebates or concessions from the published rates of the railroads for carrying

grain and other products from one State to another. The defendant companies interposed demurrers, which were overruled; whereupon they filed answers. Issue was subsequently joined and testimony in the cases is now being, or is about to be, taken.

4. *Case of the Jacksonville Wholesale Grocers' Association.*—This is a proceeding in equity, instituted under the antitrust act in the United States circuit court for the southern judicial district of Florida, for the purpose of dissolving a combination of wholesale grocers. The defendants filed answers, upon which issue has been joined, and the cause is ready for the taking of testimony.

5. *The Salt Trust case.*—This was an indictment under the antitrust act in the United States district court for the northern district of California against the Federal Salt Company for having created a combination and monopoly and entered into contracts whereby it was able to control and enhance, and did control and enhance, the price of salt throughout a large section of the United States. The defendant pleaded guilty on May 12, 1903, and was fined \$1,000. Before this indictment was found and prior to the passage of the act of Congress concerning proceedings under which my report is called for, the Government had successfully prosecuted in the United States circuit court for the northern district of California a civil proceeding against the said Federal Salt Company for maintaining a combination and monopoly in restraint of interstate trade and commerce.

6. *Interstate Commerce Commission v. Baird and others.*—This proceeding grew out of an investigation which the Interstate Commerce Commission was making into the business and methods of the so-called coal-carrying railroads, namely: The Philadelphia and Reading Railway Company; Lehigh Valley Railroad Company; Delaware, Lackawanna and Western Railroad Company; Central Railroad Company of New Jersey; New York, Susquehanna and Western Railroad Company; Erie Railroad Company; New York, Ontario and Western Railway Company; Delaware and Hudson Company; Pennsylvania Railroad Company, and Baltimore and Ohio Railroad Company. The investigation having been interrupted by the refusal of certain officers of the railroad companies to give testimony and produce books and papers which the Commission considered germane and material to the inquiry, a petition was filed, under the direction of the Attorney-General, in the United States circuit court for the southern district of New York, pursuant to section 12 of the act to regulate commerce, for the purpose of compelling the recalcitrant witnesses to give the testimony and produce the books and papers in question. The circuit court denied the petition. An appeal was taken to the Supreme Court, and is now pending there, having been set for hearing on March 7, 1904.

7. *Interstate Commerce Commission v. Nashville, Chattanooga and St. Louis Railway Company et al.*—This was a petition filed by the Interstate Commerce Commission in the circuit court of the United States for the southern district of Florida, under section 16 of the act to regulate commerce, to restrain the defendant railroads from charging rates on shipments between certain points in Florida, Tennessee, and Missouri, which the Commission alleged to be unlawful in the following respects: (a) excessive and unreasonable; (b) discriminating; and (c) higher for short hauls than for long hauls. The circuit court entered a decree dismissing the bill and this decree was affirmed by the circuit court of appeals for the fifth circuit. An appeal was taken

to the Supreme Court, under the direction of the Attorney-General, and is now pending there.

8. *Hay and straw classification case* (Interstate Commerce Commission *v.* The Lake Shore and Michigan Southern Railway Company).—This is a proceeding in equity in the United States circuit court for the northern district of Ohio, brought by the Interstate Commerce Commission, under the direction of the Attorney-General, pursuant to the provisions of the act to regulate commerce. Its object is to prevent and restrain the defendant railroads from continuing what the Commission alleges to be an unjust classification of hay and straw and unjust and unreasonable charges for their transportation from the Mississippi River to the Atlantic seaboard. The case is now pending in the circuit court, issue having been joined and testimony taken.

9. *Cotton Traffic Pool cases* (United States *v.* Western and Atlantic Railway Company et al., in the United States district court for the northern district of Georgia, and United States *v.* Illinois Central Railroad Company et al., in the United States district court for the western district of Tennessee).—These are prosecutions in which it is charged that the defendant railroads entered into a combination to control the routing of cotton, which resulted in a traffic pool. Immediately after the institution of the proceedings in these cases the alleged combination dissolved, and shippers were left free to route their shipments as they chose. The cases are yet pending.

There have been a number of proceedings of a minor character brought under the acts to regulate commerce, for example, proceedings to compel interstate carriers to make annual reports to the Interstate Commerce Commission, and the like; but it is thought that it is not the desire of the House to have a detailed account of that litigation.

Respectfully, yours,

P. C. KNOX,
Attorney-General.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Statement of disbursements from appropriation for enforcement of antitrust laws to December 31, 1903.

SALARIES.

William A. Day, assistant to the Attorney-General, March 17 to December 31, 1903.....	\$5,541.67
Milton D. Purdy, Assistant Attorney-General, April 1 to December 31, 1903.....	3,750.00
W. M. Collier, special assistant to Attorney-General, detailed as solicitor for the Department of Commerce and Labor, April 1 to December 31, 1903.....	3,214.26
G. C. Todd, law clerk, June 22 to December 31, 1903.....	839.56
J. C. Morcock, confidential clerk, April 23 to December 31, 1903.....	1,103.26
J. H. Graves, confidential clerk, June 1 to October 7, 1903....	562.33
	<hr/> \$15,011.08

FEEES.

D. T. Watson, special counsel in case of United States <i>v.</i> Northern Securities Company.....	10,000.00
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EXPENSES.

D. T. Watson, expenses for making transcripts, Northern Securities case.....	\$500. 90
Smith Brothers, St. Louis, printing, Northern Securities case..	180. 00
Robert S. Taylor, transcript of oral argument, Northern Securities case.....	80. 00
W. J. Hughes, expenses to New York investigating complaint under antitrust law.....	23. 85
William A. Day, traveling expenses, Northern Securities case..	61. 50
Harold N. Saxton, expenses, investigating beef trust.....	127 73
	<hr/>
	\$973. 98
Total amount disbursed.....	<hr/>
	25, 985. 06

DEPARTMENT OF JUSTICE, *January 5, 1903.*

SIR: Referring to the proposition to appropriate the sum of \$500,000 to be expended by the Attorney-General in the enforcement of the antitrust laws, I take this opportunity of saying that in my judgment more effective work at much less cost to the Government can be done if the permanent force of the Department of Justice is reasonably increased. The greatest desideratum is that a new officer should be provided for, who might appropriately be called the "Assistant to the Attorney-General," to whom the Attorney-General could delegate the performance of many of the duties resting upon him. The necessity for such assistance exists wholly outside of any additional labor that it may be contemplated the Department will be compelled to undertake by reason of the proposed appropriation.

The creation of such an office and an additional assistant attorney-general would enable the Department within itself to look after many of the cases that would otherwise be placed in the hands of special counsel, whose services are not obtainable upon the basis of compensation allowed by the Government for its permanent legal services.

If such provision should be made covering the additional clerical assistance necessary a very much less appropriation for special services than that proposed would be ample to cover any requirements of the immediate future.

Respectfully, yours,

P. C. KNOX, *Attorney-General.*

Hon. JOHN J. JENKINS,
Chairman Committee on the Judiciary,
House of Representatives.

